**IN THE HIGH COURT OF UTTARANCAL**
**AT NAINITAL**
Civil Writ Petition No. 720 of 2005 (S/S)

1. Constable 82 CP Saha Alam
S/o Shri Khalil Ahamad
Presently posted at Police Station- Manglaur
District – Haridwar

2. Constable 145 CP Rajendra Kumar
S/o Shri Shayam Singh
Presently posted at Police Station- Manglaur
District – Haridwar

3. Constable 42 CP Gautam Kumar
S/o Shri Daya Ram
Presently posted at Police Station- Manglaur
District – Haridwar

4. Constable 3261 GRP Ravindra Kumar Punia
S/o Late Shri Tika Ram
Presently posted at Police Station- Manglaur
District – Haridwar

5. Constable 1965 GRP Pawan Kumar
S/o Shri Sukhbir Singh
Presently posted at Police Station- Manglaur
District – Haridwar

6. Constable 567 CP Sushil Kumar
S/o Shri Hansrai Singh
Presently posted at Police Station- Manglaur
District – Haridwar

7. Constable 253 CP Brij Pal Singh
S/o Shri Sukkan Singh
Presently posted at Police Station- Manglaur
District – Haridwar

8. Constable 240 CP Kushal Pla
S/o Shri Dharambir Singh
Presently posted at Police Station- Khanpur
District – Haridwar

9. Constable 291 CP Vijendra
S/o Shri Bholeram

Presently posted at Police Station- Jawalapur
District – Haridwar

10. Constable 55 CP Rajendra Singh
S/o Shri Shyam Singh
Presently posted at Police Station- Manglaur
District – Haridwar

11. Constable 86 CP Rajendra Singh
S/o Shri Nathu Singh
Presently posted at Police Station- Jawalapur
District – Haridwar

12. Constable Driver Vijendra Singh
S/o Shri Ajab Singh
Presently posted at Police Line Haridwar
District – Haridwar

13. Constable 293 CP Pankaj Yadav
S/o Shri Mahivir Singh Yadav
Presently posted at Police Station- Roorkee
District – Haridwar

14. Constable 30 CP Mahempal Singh
S/o Shri Shyam Singh
Presently posted at S.P.O. Office Roorkee
District – Haridwar

15. Constable 2166 GRP Jitendra Singh
S/o Shri Lahari Singh
Presently posted at Police Station- Jawalapur
District – Haridwar

16. Constable 44 CP Rajendra Singh
S/o Shri Lahari Singh
Presently posted at Police Station- Khanpur
District – Haridwar

17. Constable 112 CP Shashi Kumar
S/o Shri Bhopal Singh
Presently posted at Police Station- Jawalapur
District – Haridwar

Versus

1. Union of India through its Secretary

Ministry of Home Affairs

2. State of Uttaranchal
through Principal Secretary
Government of Uttaranchal, Dehradun

3. State of Uttar Pradesh
through Principal Secretary
Government of U.P. Lucknow

4. Inspector General of Police
Uttaranchal Government, Dehradun.

4. Senior Superintendent of Police
District Haridwar ……Respondents

Sri Rajendra Singh, leaned counsel for the petitioners.
Sri Paresh Tripathi, learned Standing Counsel for the respondents.

**Hon'ble B.C. Kandpal, J.**

This writ petition has been filed for issuing of a writ order or direction in the nature of mandamus commanding the respondents to decide the options submitted by the petitioners for relieving them for the State of Uttar Pradesh.

Brief facts giving rise to this writ petition are that the petitioners are Constables in G.R.P. or Civil Police posted in the District Haridwar. All the petitioners were appointed in the State of Uttar Pradesh and at the time of creation of State of Uttaranchal, they had given their options for their posting in the State of Uttar Pradesh.

It has been stated in the writ petition that their options had not been considered by the Advisory Committee as yet. Hence, this writ petition.

Heard leaned counsel for the parties and perused the record.

Petitioners have stated in the writ petition that the Central Government has not framed any policy for final allocation and as such the petitioners are suffering due to inaction on the part of the Central Government.

**Section 73 of the Uttar Pradesh Reorganisation Act, 2000** provides that every person shall continue to serve provisionally and thereafter the Central Government shall determine the final allocation for service, ***Section 73 (1),(2),(3)*** reads as under:-

> *"Provisions relating to other services:-*
>
> *(1) Every person who immediately before the appointed day is serving in connection with the affairs of the existing State of Uttar Pradesh shall, on and from that day provisionally continue to serve in connection with the affairs of the State of Uttar Pradesh unless he is required, by general or special order of the Central Government to serve provisionally in connection with the affairs of the State of Uttaranchal.*
>
> *Provided that every direction under this sub-section issued after the expiry of a period of one year from the appointed day shall be issued with the consultation of the Governments of the successor States.*
>
> *(2) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the successor State to which every person referred to in sub-section (1) shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect.*

*(3) Every person who is finally allotted under the provisions of sub-section (2) to a successor State, shall, if he is not already serving therein be made available for serving in the successor State from such date as may be agreed upon between the Governments concerned or in default of such agreement, as may be determined by the Central Government.*

The advisory committee has been constituted under ***Uttar Pradesh Reorganisation Act 2000 by virtue of Section 76 of the Act.*** It reads as under:-

*"Advisory committees – The Central Government, by order, establish one or more Advisory Committees for the purpose of assisting it in regards to –*

*(a) the discharge of any of its functions under this part; and*

*(b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this Part and the proper consideration of any representations made by such persons."*

Learned counsel for the petitioners has also referred ***Section 77 of the Uttar Pradesh Reorganisation Act 2000*** with regard to the power of the Central Government, which runs as under:-

*"Power of Central Government to give directions – The Central Government may give, such directions to the State Government of Uttar Pradesh and the State of Government of Uttaranchal as may appear to it to be necessary for*

*the purpose of giving effect to the foregoing provisions of this Part and the State Government shall comply with such directions."*

The learned counsel for the petitioners has invited my attention towards the judgment and decision of the Division Bench of this Court passed in ***Writ Petition No. 457 of 2003 Udai Pratap Singh Vs. State U.P.*** in which this court has made following observations:-

*"Under Section 73(2), the Central Government is given the power to allocate the cadres by general or special order of allotment between the two States. Section 76 provides for setting up of an Advisory Committee to assist the Central Government. By the impugned order dated 11th September, 2002, the Central Government has issued directions allocating the various cadres between the two States. The Central Government has issued these directions pursuant to the authority given by the legislature to the Central Government.*

*The Central Government had constituted an Advisory committee under Section 76. That committee submitted its report on 28th April 2001/10th May 2001. Their report has been accepted by the Central Government as indicated by letter dated 4th September, 2001(annexure-4). We may clarify that the report of the Advisory Committee has not been fully accepted by the Central Government.*

In another decision of Division Bench of this Court in ***Writ Petition NO. 451 (S/B) of 2003 Narendra Kumar Vs. State of Uttaranchal*** has also observed as under: -

> *"Under Section 73 of the U.P. Reorganisation Act, 2000, final allocation of all State Services personal between the successor States shall be decided by the Central Government. Till date, that decision has not been taken. Therefore, the petition is premature."*

In the light of the aforesaid observations, I am of the view that the petitioners should be permitted to make their representations before the Advisory Committee of Union of India and their representations along with the options shall be considered by the Advisory Committee of Union of India for reliving them for the State of Uttar Pradesh.

I accordingly direct that the representations made by the petitioners shall be disposed of within a period of six weeks after production of the certified copy of the order.

With the aforesaid observations, the writ petition is disposed of finally. No order as to costs.

**(B.C. Kandpal, J.)**

13th June, 2005
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